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& Trading, Five Seas Shipping Co., LLC,
and Al-Buhaira National Insurance Co.*

FILED
DISTRICT COURT OF GUAM
MAR 19 2007
MARY L.M. MORAN
CLERK OF COURT

10 IN THE DISTRICT COURT OF GUAM

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 MARWAN SHIPPING & TRADING CO.,
15 FIVE SEAS SHIPPING CO., LLC AND S.J.
16 GARGRAVE SYNDICATE 2724, IN
17 PERSONAM, NAVIGATORS PROTECTION
18 & INDEMNITY, AND AL-BUHAIRA
NATIONAL INSURANCE COMPANY,

19 Defendants

20 AND CROSS-CLAIMS, COUNTERCLAIMS,
21 THIRD-PARTY COMPLAINT, AND CLAIM
IN INTERVENTION.

NO. CIV06-00011

**THIRD PARTY DEFENDANT AL
BUHAIRA INSURANCE COMPANY'S
ANSWER TO VERIFIED COMPLAINT
OF THE UNITED STATES OF AMERICA**

22
23 **AL BUHAIRA'S ANSWER TO VERIFIED COMPLAINT**

24 Al Buhaira Insurance Company ("Al Buhaira") is a Rule 14 (c) third party defendant to
25 this action and, accordingly, owes the United States an answer to its Verified Complaint, even
26 though none of the allegations and contentions in that Verified Complaint are addressed to Al

ORIGINAL

1 Buhaira. In these circumstances, Al Buhaira answers the Verified Complaint of the United
2 States as follows:

3 1. Al Buhaira admits that this is a case of admiralty and maritime jurisdiction and
4 that S.J. Gargrave Syndicate 2724 is a defendant. Except as so admitted, Al Buhaira is without
5 information sufficient to form a belief as to the truth of the allegations contained in paragraph 1
6 and therefore denies same.

7
8 2. Al Buhaira is without information sufficient to form a belief as to the truth of the
9 allegations contained in paragraph 2 and therefore denies same.

10 3. Admitted.

11 4. Al Buhaira is without information sufficient to form a belief as to the truth of the
12 allegations contained in paragraph 4 and therefore denies same.

13 5-19. An answer to these paragraphs is not required from Al Buhaira.

14 20. Denied.

15
16 21. Al Buhaira admits the M/V AJMAN 2 grounded at Family Beach. Except as so
17 admitted, the allegations in paragraph 21 are denied.

18 22. Denied.

19 23. Denied.

20 24. Denied.

21 25-32. The allegations of these paragraphs are not directed at Al Buhaira and, therefore,
22 no answer is required from Al Buhaira to these paragraphs.

23
24 **AL BUHAIRA'S AFFIRMATIVE DEFENSES TO VERIFIED COMPLAINT**

25 1. Failure to state facts sufficient to constitute a cause of action against this answering
26 defendant.

1 2. This answering defendant is informed and believes that if the United States sustained any
2 injuries and damages, they proximately resulted from the conduct of others.

3 3. The claims set forth in the Verified Complaint and in S. J. Gargrave's third-party
4 complaint are time barred.

5 4. The United States by its conduct and/or the conduct of its agents, servants,
6 representatives, or employees, has waived and/or is estopped and barred from any rights of
7 recovery against this answering defendant.

8 5. The United States is barred from any relief against this answering defendant by reason of
9 unclean hands.

10 6. The United States and/or other parties not related to this defendant were careless and
11 negligent in and about the matters referred to in the Verified Complaint and in the S. J.
12 Gargrave third-party complaint, or were otherwise responsible and legally liable for the
13 allegations contained in said pleadings, which negligence, carelessness, and/or legal liability
14 proximately contributed to and/or were the sole proximate cause of the damages or injuries
15 complained of, if any there be. Such negligence, carelessness, and/or liability bar and/or
16 proportionately reduce any recovery against this answering defendant.

17 7. The United States has failed to mitigate and minimize its damages, if any there be, and
18 said failure eliminates or reduces any claim for relief against this answering defendant.

19 8. In the event it is held liable, this answering defendant alleges that its liability is
20 secondary to other parties in this action and on that basis alleges that any award to which the
21 plaintiff is entitled must first be satisfied by said other parties.

22 9. This answering defendant hereby incorporates all defenses raised or that could be raised
23 by other parties to this action as if asserted here in full.
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25
26

1 10. This answering defendant reserves the right to supplement and add to these affirmative
2 defenses as appropriate.

3 DATED this 19th day of March, 2007.

4 **CAIRNCROSS & HEMPELMANN, PS**

5 **TEKER TORRES & TEKER, P.C.**

6
7
8 By  **LAWRENCE J. TEKER, ESQ.**

9 Attorneys for Defendant, *Marwan Shipping &*
10 *Trading Co., Sharjah, Five Seas Shipping Co.,*
11 *LLC, Sharjah, and Al-Buhaira National*
12 *Insurance Co.*

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled THIRD PARTY DEFENDANT AL BUHAIRA INSURANCE COMPANY'S ANSWER TO VERIFIED COMPLAINT OF THE UNITED STATES OF AMERICA on the following individuals:

R. Michael Underhill, Mimi Moon Torts Branch, Civil Division US Department of Justice 450 Golden Gate Avenue, Room 7-5395 PO Box 36028 San Francisco, CA 94102-3463	Forrest Booth Ryan Donlon Severson & Werson One Embarcadero Center, 26 th Floor San Francisco, CA 94111
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☒ Via Messenger

☒ Via E-mail

DATED this 19th day of March, 2007 in Hagåtña, Guam.


LAWRENCE J. TEKER